

UNITED STATES DISTRICT COURT

for the
District of Arizona

United States of America)

v.)

Gregorio Adrian Batista-Rascon,)

A208 205 102)

Defendant)

Case No. 17-435MJ)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about September 28, 2017, in the County of Maricopa, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), an offense described as follows:


Gregorio Adrian Batista-Rascon, an alien, was found in the United States of America, at or near Queen Creek, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States, at or near Eagle Pass, Texas, on or about January 14, 2017, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a).

I further state that I am a Border Patrol Agent with U.S. Customs and Border Protection.

This criminal complaint is based on these facts:

See Attached Statement of Probable Cause Incorporated By Reference Herein

REVIEWED BY: AUSA Jacqueline Schesnoh for AUSA Brandon M. Brown

☒ Continued on the attached sheet.
Complainant's signature


Sheldon W. Schmitt

U.S. Border Patrol Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: September 29, 2017


Judge's signature

City and state: Phoenix, Arizona

Michelle H. Burns

United States Magistrate Judge

Printed name and title

STATEMENT OF PROBABLE CAUSE

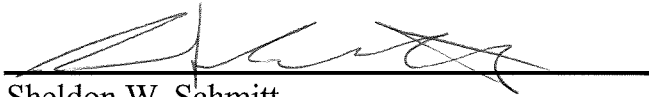
I, Sheldon W. Schmitt, being duly sworn, hereby depose and state as follows:

1. Your affiant is a United States Border Patrol agent. I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On September 28, 2017, Border Patrol Agent J. Perez-Araujo encountered an individual near Queen Creek, in the District of Arizona. The agent identified himself as a Border Patrol agent and performed an immigration inspection on the individual. The individual, later identified as Gregorio Adrian Batista-Rascon, admitted to being a citizen and national of a country other than the United States, unlawfully present in the United States. Batista-Rascon was transported to the Casa Grande Border Patrol Station for further processing. Batista-Rascon was held in administrative custody until his identity could be confirmed along with his immigration and criminal history.
3. Immigration history checks revealed Gregorio Adrian Batista-Rascon to be a citizen of Mexico and a previously deported alien. Batista-Rascon was removed from the United States to Mexico through Eagle Pass, Texas, on or about January 14, 2017, pursuant to the reinstatement of a removal order issued by an immigration official. There is no record of Gregorio Adrian Batista-Rascon in any Department of

Homeland Security database to suggest that he obtained permission from the Secretary of the Department of Homeland Security to return to the United States after his removal. Batista-Rascon's immigration history was matched to him by electronic fingerprint comparison.

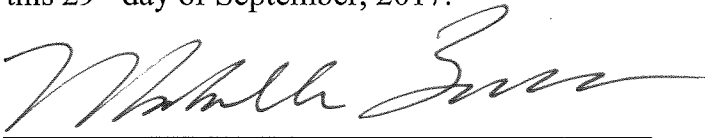
4. On September 28, 2017, Gregorio Adrian Batista-Rascon was advised of his constitutional rights. Batista-Rascon freely and willingly acknowledged his rights and agreed to provide a statement under oath. Batista-Rascon stated that his true and complete name is Gregorio Adrian Batista-Rascon and that he is a citizen of Mexico and of no other country. Batista-Rascon stated that he entered the United States somewhere near Nogales, Arizona, on or about January 28, 2017, at approximately 6:00 am, without inspection by an immigration officer. Batista-Rascon further stated that he had been previously removed from the United States to Mexico and did not receive permission from the Secretary of the Department of Homeland Security to re-enter the United States after his removal.
5. For these reasons, this affiant submits that there is probable cause to believe that on or about September 28, 2017, Gregorio Adrian Batista-Rascon, an alien, was found in the United States of America, at or near Queen Creek, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near Eagle Pass, Texas, on or about January 14, 2017, and not

having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a).

A handwritten signature in black ink, appearing to read 'Sheldon W. Schmitt', is written over a solid black horizontal line.

Sheldon W. Schmitt
U.S. Border Patrol Agent

Sworn to and subscribed before me
this 29th day of September, 2017.

A handwritten signature in black ink, appearing to read 'Michelle H. Burns', is written over a solid black horizontal line.

Michelle H. Burns
United States Magistrate Judge